

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN A BELLANTONI and MARIA T.
BELLANTONI, His Wife,

Plaintiffs,

08-CV-2407

-against-

Honorable C.L. Brieant

GENERAL MOTORS CORPORATION and
CHAMPTION CARRIER CORP.,

Defendants.

**JOINT PROPOSED CIVIL CASE DISCOVERY PLAN AND SCHEDULING
ORDER**

This Court requires that this case shall be ready for trial on or after November 1, 2009.

The following Civil Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel for the parties, pursuant to Rules 26(f) and 16 of the Federal Rules of Civil Procedure.

This case is to be tried by a jury.

Joinder of additional parties must be accomplished by September 30, 2008

Amended pleadings may be filed until November 30, 2008

Discovery:

1. Interrogatories are to be served by all counsel no later than June 9, 2008, and responses to such interrogatories shall be served within thirty (30) days thereafter. The provisions of Local Civil Rule 33.3 shall not apply to this case.
2. The parties may serve First Requests for Production of Documents, if any, beginning May 12, 2008 and may serve further Requests for Production of Documents continuing throughout the discovery period.
3. Fact Depositions are to be completed by March 31, 2009; Expert Depositions shall be completed by September 30, 2009

- a. Unless counsel agree otherwise or the Court so orders, depositions are not to be held until all parties have responded to any First Requests For Production of Documents. Plaintiff reserves the right to Notice the Deposition of document custodians and other employees or representatives of defendant General Motors in order to identify documents for discovery, ascertain the location of documents and conduct fact discovery.
 - b. Depositions shall proceed concurrently.
 - c. Whenever possible, unless counsel agree otherwise or the Court so orders, non-party depositions shall follow party depositions.
 - d. If the defense of qualified immunity from suit as a matter of law has been or will be asserted by any defendant(s) with respect to any claim(s) in the case, counsel for any such defendant(s) shall, within thirty (30) days of this order depose plaintiff(s) at least concerning all facts relevant to the issue of qualified immunity. Within thirty (30) days thereafter defendant(s) shall serve consistent with Local Rule 6.1 and file a motion under Rule 12(c) or Rule 56, returnable on a date posted in the New York Law Journal by Judge Briant for hearing motions. The motion shall, in the absence of agreement of counsel, be limited to the issue of qualified immunity, and plaintiff(s) version of the events shall be assumed true for purposes of the motion. **Failure to comply with this provision of this Order shall operate as a waiver of the opportunity to resolve the issue of qualified immunity by motion prior to trial.**
4. Any further interrogatories, including expert interrogatories, to be served no later than February 28, 2009.
 5. Request to Admit, if any to be served beginning May 12, 2009 and continuing through the end of the discovery period.
 6. Additional provisions relating to discovery agreed upon by counsel for the parties are set forth below and made a part of hereof:.

Plaintiffs non-treating medical and liability expert reports shall be served by May 15, 2009.

Defendants medical and liability expert reports shall be served by July 1, 2009

Plaintiff shall appear for IME(s) by not later than 45 days after his deposition.

7. All discovery is to be complete by October 31, 2009

Dispositive motions, if any, must be served on notice as required by Local Civil Rule 6.1, and must be returnable before the Court on a published motion day, no later than three weeks before the ready for trial date.

Next Case Management Conference:

(This date will be set by the Court at the first conference)

NOV. 7, 2008 9:00

Joint Pretrial Order is required only if counsel for all parties agree that it is desirable, or the Court so orders.

This case has been designated to the Hon. George A. Yanthis, United States Magistrate Judge at White Plains for discovery disputes if the Court is "unavailable" and for trial under 28 U.S.C. § 636 (c) if counsel execute their consent in writing.

Strict compliance with the trial readiness date will be required. This Plan and Order may not be changed without leave of Court or the assigned Magistrate Judge acting under a specific reference order.

Upon signing a Consent for Trial Before a United States Magistrate Judge, the Magistrate Judge will establish an agreed date certain for trial and will amend this Plan and Order to provide for trial readiness consistent with that agreed date.

SO ORDERED.

Dated: White Plains, New York

May 9, 2008

Charles L. Brieant
Charles L. Brieant, U.S.D.J.